

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: ETHICON, INC. PELVIC REPAIR
SYSTEMS PRODUCTS LIABILITY
LITIGATION

Master File No. 2:12-MD-02327
MDL 2327

ETHICON WAVE 3 CASES LISTED IN
EXHIBIT A

JOSEPH R. GOODWIN U.S. DISTRICT
JUDGE

**DEFENDANTS' SUPPLEMENTAL MOTION TO EXCLUDE AND NOTICE OF
ADOPTION OF PRIOR DAUBERT MOTION AND REPLY BRIEF OF MICHAEL
THOMAS MARGOLIS, M.D. FOR WAVE 3**

Come now, Defendants Ethicon, Inc., Ethicon, LLC and Johnson & Johnson (collectively, "Ethicon"), and hereby move to exclude certain general opinions of one of Plaintiffs' experts, Dr. Michael Thomas Margolis. Defendants adopt and incorporate by reference the *Daubert* motion filed against Dr. Michael Thomas Margolis for Ethicon Wave 1 cases, Dkt. Nos. 2029 (motion), 2031 (memorandum in support) and supporting Reply brief, Dkt. 2212. Ethicon further incorporates by reference their supplemental memorandum of law filed contemporaneously herewith, and relies on the additional exhibits listed below.

In addition to the arguments set forth in Ethicon's briefings filed against Dr. Margolis for Ethicon Wave 1 cases, Ethicon submits that opinions related to degradation, including opinions related to the degradation of mechanically cut versus laser cut mesh, are unreliable. Ethicon acknowledges the Court's Order (Dkt. 2681) related to Ethicon's *Daubert* motion filed against Dr. Michael Thomas Margolis for Ethicon Wave 1 cases. Ethicon respectfully requests that the Court exclude Dr. Michael Thomas Margolis's testimony, for the reasons expressed in the Wave 1 briefings and Ethicon's supplemental memorandum of law filed contemporaneously herewith. As grounds for this motion, Defendants submit that Dr. Margolis cannot provide reliable,

trustworthy and/or admissible testimony about these topics under the standard set forth in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993). This notice applies to the Wave 3 cases identified in Exhibit A attached hereto. Ethicon also incorporates and relies on the following exhibits:

- B. Rule 26 Expert Report of Dr. Michael Thomas Margolis on TVT;
- C. Rule 26 Expert Report of Dr. Michael Thomas Margolis on TVT-O;
- D. Excerpts from Margolis *Batiste* (11/26/13) Deposition Transcript;
- E. Excerpts from *Huskey v. Ethicon, Inc.*, 8/25/2014 Trial Transcript; and
- F. Excerpts from Dr. Scott Guelcher 3/23/16 Deposition Transcript.

Respectfully submitted,

/s/Christy D. Jones

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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing document with the Clerk of the court using CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ Christy D. Jones

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